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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-215842

DATE: June 25, 1986

MATTER OF: Job Corps Center Receipts

DIGEST:

1. Job Corps Center receipts derived from sales of meals, clothing, tool kits, and arts and crafts, and from fines and property damage restitution, may be retained by the Job Corps program and need not be deposited into the Treasury as miscellaneous receipts as normally required by section 3302 of title 31. Section 1551(m) of title 29 allows retention of income generated under the Job Corps program, and the appropriation covering the Job Corps program for "Training and Employment Services," as provided in the annual Department of Labor appropriations acts, specifically allows reimbursements to be added to it.
2. Monies received from fines for corpsmember misconduct and sales of arts and crafts objects made by corpsmembers may be deposited in the Corpsmember Welfare Association funds, as required by program regulations. Such funds lose their Federal character and may be spent for association activities.
3. Since Job Corps Welfare Association funds are not public funds subject to the statutory restrictions applicable thereto, they need not be maintained in the Treasury or in depositaries designated by the Secretary of the Treasury, and may be kept in local banks.
4. Monies received from agreements between the Weber Basin Job Corps Center, operated by the Department of the Interior, and Utah Davis County School District and Utah State Department of Corrections,

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may be returned to the Job Corps program rather than deposited into the Treasury as miscellaneous receipts. The monies may be considered both as income generated under the Job Corps program, 29 U.S.C. § 1551(m), and as reimbursements which the yearly appropriations acts covering the Job Corps specifically allow to be added to appropriations. As section 1580 of title 29 allows acceptance of state services and facilities for programs under the Job Training Partnership Act, Pub. L. No. 97-300, 96 Stat. 1322, 1370, including the Job Corps program, payments under the agreements may also be made through in-kind services or property.

5. Consistent with interagency agreements between the Interior and Labor Departments and Labor and the Department of Defense, Interior Department imprest fund cashiers receiving monies from Army disbursing officers for payments to Job Corps enrollees are responsible, accountable and liable in the same manner as other imprest fund cashiers consistent with Section 22 of title 7 of the General Accounting Office's Policy and Procedures Manual, Volume I, § 4-3000 of the Treasury Fiscal Requirements Manual and the Labor Department's Job Corps Handbook No. 630.

The Department of the Interior has asked a number of questions about its financial management of funds provided to it for operation of Job Corps Civilian Conservation Centers (Centers). The Department's authority to operate these Centers derives from an interagency agreement between the Interior and Labor Departments, originally entered under section 407 of the Comprehensive Employment and Training Act of 1973 (CETA)^{1/}, Pub. L. No. 93-203, 87 Stat. 839, 863. Pursuant to the agreement, Labor transfers funds from its annual Job Corps appropriation to Interior for Interior's operating expenses for the Centers.

Specifically Interior asks:

(1) whether it should credit Job Corps Center receipts derived from meals, clothing, tool kits and arts and crafts

^{1/} Most of CETA's provisions pertaining to the Job Corps were repealed and reenacted as part of the Job Training Partnership Act. Pub. L. No. 97-300, 96 Stat. 1322, 1370.

sales, corpsmember fines, and property damage restitution to (a) Job Corps appropriations, (b) miscellaneous receipts of the Treasury, or (c) the Corpsmember Welfare Associations;

(2) whether Corpsmember Welfare Association financial transactions may be processed through local banks instead of being maintained in trust funds in the Treasury;

(3)(a) whether collections received from agreements between the Weber Basin Job Corps Center and the Utah Davis County School District, and Utah State Department of Corrections, should be deposited to the Job Corps appropriation, the miscellaneous receipts account in the Treasury, or handled in some other way, and (b) if deposit of these collections in the Job Corps appropriation would unlawfully augment that appropriation, whether the receipt of in-kind services or property also would constitute such an augmentation; and

(4)(a) whether the Interior Department's operation of the Department of Defense imprest funds is proper, (b) the financial treatment the imprest funds should be accorded in Interior's fiscal records, and (c) the responsibility of the Interior Department and its cashiers for the funds.

For the reasons indicated below, we conclude:

(1) Interior should credit the questioned receipts to the Job Corps appropriation, with the exception of the fines and the arts and crafts sales which, pursuant to program regulations, may be deposited to the credit of the Corpsmember Welfare Associations;

(2) Corpsmember Welfare Association transactions may be processed through local banks;

(3) monies received from the Utah agreements may be credited to the Job Corps account, and in-kind services may also be accepted; and

(4) Interior employees who act as imprest fund cashiers using funds provided by the Department of the Army should be held to the same standards of accountability as any other civilian imprest fund cashier.

I. Proper Deposit of Job Corps Center Receipts

A. Background

The purpose of the Job Corps program is to assist youth "who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens * * *." 29 U.S.C. § 1691. The program calls for establishing residential and nonresidential Centers in which Corps enrollees participate in intensive programs of education, vocational training, work experience, counseling, planned recreational activities, rehabilitation and development. Id. §§ 1691, 1698.

Section 407 of CETA, reenacted as section 427 of the Job Training Partnership Act, 29 U.S.C. § 1697, authorizes the Secretary of Labor to make agreements with Federal, state or local agencies for establishing and operating Job Corps Centers, including Civilian Conservation Centers, located primarily in rural areas. Under the authority in section 407, the Secretary of Labor entered into an agreement with the Department of the Interior, effective July 1, 1974, authorizing Interior to administer and operate Centers in accordance with the Job Corps program legislation on lands under Interior Department jurisdiction.

Funds for Interior's operation of the Centers are transferred from the Labor Department appropriation for "Training and Employment Services," the appropriation that funds the Job Corps program. (E.g., Pub. L. No. 98-139, 97 Stat. 871.) Since fiscal year 1975, the annual appropriation supporting the Job Corp program has included language allowing "reimbursements" to be added to the amounts appropriated. Moreover, a provision applicable to all programs covered by the Job Training Partnership Act provides that "income generated under any program may be retained by the recipient to continue to carry out the program * * *." 29 U.S.C. § 1551(m).

Under normal circumstances, in addition to the transferred appropriations, center operators also receive monies from sales of meals to employees and outside visitors, tool kits, clothing, and arts and crafts objects (made by corpsmembers, with materials furnished by Interior), from fines assessed against corpsmembers for disciplinary infractions, and from restitution for damage to center property caused by corpsmembers. Interior is authorized by regulations of the Department of Labor published at 20 C.F.R. § 684, to make all these charges.

The regulations also authorize establishment of Corpsmember Welfare Associations and Welfare Association funds. Id. § 684.79. The associations and funds are to be run by elected corpsmember association councils. The regulations specifically prohibit expenditure of appropriated funds on Welfare Association activities. Moreover, Interior has informed us that the corpsmembers themselves provide the start-up funds for the associations and that no Federal funds are used even on a reimbursable basis. Instead, the associations receive revenues from such sources as "snack-bars, vending machines, disciplinary fines, sale of arts and crafts objects made by corpsmembers, and pay telephones." Id. Subsection 684.73(f) of the program regulations authorizes the sale of arts and crafts made by corpsmembers in accordance with an arts and crafts program approved by the Corpsmember Welfare Associations, provided that the profits benefit the associations. Disciplinary fines are also required by the program regulations to be deposited in the Welfare Association funds.

B. Legal Discussion

1. Receipts from sales of meals, tool kits, clothing, and arts and crafts objects.

Generally, absent statutory authority to the contrary, all funds received for use of the United States, regardless of source, must be deposited into the general fund of the Treasury as miscellaneous receipts (31 U.S.C. § 3302), on the theory that if receipts are credited to a specific appropriation instead, they would unlawfully augment the appropriation. 62 Comp. Gen. 678, 679 (1983). In the present case, however, we think the provisions in the Job Training Partnership Act and annual appropriation acts providing funds for the Job Corps program provide the necessary statutory authority to allow the receipts described above to be retained for Job Corps program purposes, with the exception of the receipts from arts and crafts sales which are treated as non-appropriated funds, as explained below.

Section 1551(m) of title 29, which applies to all the programs set forth in the Job Training Partnership Act, allows income generated under the Job Corps program to be retained by the recipient to "continue to carry out the program." In this case, the recipient is the Department of the Interior. Although the legislative history of the Act does not discuss the provision to any extent, we think the plain language would include as "income generated," receipts from sales of meals, tool kits, and clothing. Thus, these receipts can be retained by the Department of the Interior for further use in the program.

In addition, the words "including reimbursements" in the annual appropriations covering the Job Corps program, the appropriation to the Labor Department for "Training and Employment Services," provide further support for our conclusion. Although the term "reimbursement" is not defined in the annual appropriations acts or in their respective legislative histories, both the Department of the Treasury and this Office have defined the term as sums collected by the Government in payment for commodities sold or services furnished. See 7 GAO Policy and Procedures Manual for the Guidance of Federal Agencies, § 12.2. We think our definition would cover receipts from sales of meals, tool kits, and clothing, as those items would qualify as commodities sold.

As mentioned before, these sums would normally have to be deposited into the Treasury's miscellaneous receipts account, but in this case the annual appropriations acts specifically make these reimbursements available for obligation, just as if they were part of the basic appropriation.

While it appeared to us at first reading that receipts from the sales of arts and crafts objects made by Corpsmembers with materials furnished by the Centers should also be treated as reimbursements for commodities sold, the program regulations (20 C.F.R. § 684.73(f)) require deposit of these receipts in the Corpsmembers Welfare funds. The Department of Labor, whose views we sought on the various questions raised by Interior, offers the following explanation of its regulatory requirement:

"These arts and crafts are considered corpsmember's [sic] property. Thus, receipts from sales should not be deposited to a Federal account."

We are not inclined to quarrel with the Department's program judgment on that question.

2. Receipts from fines.

Receipts from fines imposed on corpsmembers for disciplinary infractions are not sums collected by the Government "for commodities sold or services furnished." Therefore, they do not qualify as "reimbursements" which, as discussed earlier, the annual appropriation acts specifically make available to program recipients for program obligations. In B-130515, Aug. 18, 1970, we held that monies received

by the Labor Department from fines for corpsmembers' misconduct were not monies collected for the use of the United States at all. Instead, we regarded the fines as a reduction in the amount of the personal allowance that would otherwise have been paid to a corpsmember but for his unsatisfactory behaviour. See sections 109(a) and 110(b) of the Economic Opportunity Act of 1964, as amended, 81 Stat. 676-77. As substantially the same legislation is currently in force (29 U.S.C. §§ 1699, 1700),^{2/} that decision would also apply to the present Job Corps program.

Although the funds "freed up" by the reduction in the allowances payable to the corpsmembers who were fined do not qualify as "reimbursements," they do constitute "program income" since they were derived from a program activity. As discussed above, 29 U.S.C. § 1551(m) permits program recipients to retain all income generated by the program for further use in the program. As was the case with the funds from the sales of arts and crafts objects, receipts from fines are also required by the program regulations to be deposited in the Corpsmember Welfare funds. The Department of Labor, in response to our inquiry about the propriety of this disposition of the fines, stated:

"Since this fine is paid by the corpsmember from personal funds, and does not involve payment for goods or services, it would seem proper for the money to be deposited to the Corpsmember Welfare Fund."

The Department of the Treasury also agreed that the above described disposition of disciplinary fines was a "proper exercise of the Secretary's [of Labor] statutory rulemaking authority."

We agree with both departments that the funds generated by imposition of disciplinary fines, while "program income" because they resulted from a program requirement, were not collected for use of the United States. (Contrast the receipts derived from property damage reimbursements, as discussed below, which are specifically collected to make restitution for Government expenditures for repairs.) We think that the disposition of these monies lies in the

^{2/} Section 1700 of title 29 authorizes Job Corps Center directors to take appropriate disciplinary measures against Job Corps enrollees, and section 1699 permits reduction of allowances as a disciplinary measure.

discretion of the officials responsible for the management of the program. We have no objection to their determination.

3. Receipts from property damage reimbursements.

Like other receipts, we have held that monies received from loss or damage to Government property generally cannot be credited to the appropriation available to repair or replace the property but must be deposited and covered into the Treasury as miscellaneous receipts. 64 Comp. Gen. 431 (1985); 26 Comp. Gen. 618, 621 (1947). Nevertheless, consistent with our views on the other receipts described above, monies received by Interior for property damage restitution would be considered to be reimbursements, retention of which the annual appropriation acts permit.

II. Financial Transactions of Corpsmember Welfare Associations

All public monies must be deposited into the Treasury of the United States or with a public depository designated by the Secretary of the Treasury. 31 U.S.C. §§ 3302, 3303; B-199722, Sept. 15, 1981. The private origin of a fund does not necessarily mean that the monies therein are not public monies. We have consistently regarded a statute that authorizes collection and credit of fees to a particular fund, and which makes the fund available for specified expenditures, as constituting a continuing appropriation subject to the statutory controls and restrictions applicable to appropriated funds. 63 Comp. Gen. 285, 287 (1984); 35 Comp. Gen. 615, 618 (1956).

Nevertheless, we do not think the Corpsmember Welfare Association funds are public funds. These funds are not created or governed by statute, and the regulations authorizing their establishment specifically state that appropriated funds are not to be used to support welfare association activities. On the contrary, most of the funds used in running the welfare associations, including start-up funds, come from private sources. (To the extent that certain receipts, such as monies from sales of arts and crafts objects or receipts from disciplinary fines are required by regulation to be deposited in the Welfare Association funds for their exclusive use, we think that they lose their Federal character and become non-appropriated funds.) Moreover, for the most part, the persons managing and having access to the funds are corpsmembers and not Federal

employees.^{3/} Accordingly, we do not think the restrictions on public funds would apply to welfare association funds, and, thus, the funds would not have to be maintained in the Treasury or in particular depositories designated by the Secretary of the Treasury,^{4/} but could be kept in local banks.

We also think our conclusion is consistent with the statutory purpose of providing enrollees with "education and work experience." 29 U.S.C. § 1697(a). The Corpsmember Welfare Association Handbook states that participation of corpsmembers in operating and managing the associations will serve as training devices for corpsmembers in operating small businesses. United States Department of the Interior, Corpsmember Welfare Association Handbook, § 1.2 (1983). Administering the financial transactions of the funds promotes this purpose.

Although it is true that the funds will not be subject to the Federal control that they would have were they maintained in the Treasury or, perhaps, in a designated depository, the regulations describing the welfare associations do require (1) that a center staff member be responsible for maintaining the corpsmember association accounting system; (2) establishing a method to insure the security of welfare association funds; and (3) that the accounting system be subject to audit by the Department of the Interior. 20 C.F.R. § 684.79(b)(3).

III. Weber Basin Job Corps Agreements

Pursuant to an agreement between Interior's Weber Basin Job Corps Center, and the Utah State Office of Education and the Davis County School District, for several years the Weber Basin Center has been accepting a number of Utah students who receive the same programs and services as regular Job Corps enrollees. A similar agreement has been concluded between the Weber Basin Center and the Utah State Department of Corrections. Under both agreements, the Weber Basin Center is reimbursed for the training it provides. The Department of Labor informs us that the number of

^{3/} For most purposes, Job Corps enrollees are not considered Federal employees. 29 U.S.C. § 1706.

^{4/} As most of the Centers appear to be located in rural areas it might also be impractical to maintain the funds at designated depositories.

regular enrollees that the Interior-run Job Corps Centers can accept is limited by the amount of funds transferred from Labor. Therefore, even if eligible, the individuals covered by the agreements would probably not have been selected for regular enrollment.

With respect to these agreements, Interior asks whether an illegal augmentation would result if monies received from Utah are deposited into the Job Corps appropriation, and, if so, whether such an augmentation would also occur if Utah paid instead with in-kind services or property. The services and property contemplated include instruction and use of word processing and related computer equipment. Prior to answering these questions, we first must determine whether Interior was authorized to conclude the Weber Basin agreements.

Although the Job Training Partnership Act does not specifically authorize reimbursable agreements with political subdivisions of states, such as the ones in question, these agreements are consistent with the purpose of the Job Corps program, and authority to enter them may be inferred from other provisions covering the program.^{5/} Thus, section 421 of the Act, 29 U.S.C. § 1691, states the Job Corps program is to assist young people to "become more responsible, employable, and productive citizens * * * in a way that contributes * * * to the development of national, State, and community resources * * *"; section 427, *id.* § 1697, authorizes the Secretary of Labor to make agreements with state or local agencies for establishing and operating residential or nonresidential Job Corps Centers, and authorizes Job Corps Centers to offer reimbursable educational and vocational training opportunities on a nonresidential basis to participants in other programs under the Job Training Partnership Act;^{6/} section 431, *id.* § 1701, authorizes the Secretary to encourage and cooperate in activities to establish a mutually beneficial relationship

^{5/} The Labor Department agrees that the agreements are valid and has presented various arguments in support. The Treasury Department, in its views on the issues raised by Interior, has questioned their validity, essentially on the basis that they are not specifically authorized by statute.

^{6/} Neither Interior nor Labor has suggested that the state-supported enrollees are participants in other programs under the Act.

between Job Corps Centers and nearby communities; and section 435, id. § 1705, authorizes the Secretary to facilitate the effective participation of states in the Job Corps program, and to enter into agreements with states to assist in operating or administering state-operated programs that carry out the purposes of the Job Corps program. As the Labor Department, through the statutorily-authorized inter-agency agreement with Interior, essentially has delegated to Interior its authority to run Job Corps programs on lands under Interior jurisdiction, Interior has the same authority that Labor would have to conclude agreements with states and subdivisions of states.

As pointed out by the Labor Department, in at least one instance, this Office has approved a similar training agreement. Thus, in 42 Comp. Gen. 673, 674 (1963), we found proper acceptance of a limited number of private persons on a fee basis at courses of training given at the United States Patent Office Academy, notwithstanding the absence of a specific statutory basis authorizing training of non-Government personnel. We said that attendance of private persons was merely incidental to the necessary and authorized training of Government employees, although we cautioned that private trainees could be accepted only after adequate provision had been made for all Government trainees. Id. at 674. Similarly, although we find the Weber Basin agreements legally proper, we do not think they should serve to decrease the number of regular Job Corps enrollees who normally would participate in the program.

Consistent with our discussion in question 1, we think the monies received by the Weber Basin Center from Utah for training the Utah enrollees may be considered both "income generated under the Job Corps program," and "reimbursements," as provided in the appropriation covering the program. The monies received by Interior are in return for the services it provides. Accordingly, they could be returned to the program and need not be deposited into the Treasury as miscellaneous receipts.

With regard to payment through in-kind goods or services instead of reimbursements, the general provisions of the Job Training Partnership Act provide that the Secretary of Labor may accept and use the services and facilities of any state agencies or political subdivisions

of a state. 29 U.S.C. § 1580.^{7/} This authority, together with the authorities described above, which permit reimbursable agreements with state agencies, allows the Labor Department to receive payments of in-kind services or property. Pursuant to the interagency agreement with Labor, the Interior Department has the same authority. Accordingly, Interior could lawfully receive payment in property or services from Utah for its training of the Utah enrollees.

IV. Job Corps Center Imprest Fund Cashiers

In 1971 the Departments of Labor and Defense entered into a reimbursable interagency agreement pursuant to the Economy Act, 31 U.S.C. § 1535, under which the United States Army agreed to provide financial service support, through the United States Army Finance and Accounting Center, to the Department of Labor for the Job Corps program. The financial service to be provided covers the payment, certifying and disbursing functions for the Job Corps program, including maintenance and reimbursement of imprest funds. The payment responsibilities primarily cover payments to Job Corps enrollees for pay and allowances. The agreement states that payments are to be made in accordance with the procedures set forth in Job Corps Handbook No. 630.

Under the agreement, the Labor Department is authorized to maintain and develop a system of accounting and internal control; to furnish all authorizations and delegations to the Army as are necessary for making payments; to make the necessary funds available to the Army for the Army's financial service; and to arrange for periodic audits of the financial accounts and operations of the financing center.

Interior informs us that there are two imprest fund cashiers at each of the 12 Corps Centers it runs, all of whom are Interior Department employees. One of the cashiers

^{7/} The Act also authorizes the Secretary to accept, purchase or lease in the name of the department, and employ or dispose of any money or property--real, personal, or mixed, tangible or intangible--received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31. 29 U.S.C. § 1579. Section 1342 generally prohibits United States employees from accepting voluntary services.

receives disbursements from the Army under the interagency agreement between Labor and the Defense Departments, and the other from the Treasury Department. The 12 cashiers who receive Army funds make disbursements for pay and allowances of Job Corps enrollees. The 12 who receive funds from the Treasury, among other things, make disbursements for small purchase procurements needed at the Centers. Although its question is not altogether clear, Interior appears to be concerned about the responsibilities and potential liability of the 12 Interior Department imprest fund cashiers who receive disbursements from the Army as well as the proper way to account for the imprest funds.

We have no legal objection to the interagency agreement between Labor and the Defense Department which authorizes the Army to make disbursements for the Job Corps program. In the past we have found similar agreements proper. 44 Comp. Gen. 818, 820-21 (1965); 22 Comp. Gen. 48, 51 (1942). The combined effect of the Labor-Defense and the Labor-Interior agreements discussed above is to make Interior a recipient of Labor Department monies, for pay and allowances of corpsmembers, which are disbursed by the Army. We see no reason why the Interior Department imprest fund cashiers receiving these monies should not be responsible, liable, and accountable in the same manner as other imprest fund cashiers.

The general provisions governing the responsibilities and duties of imprest fund cashiers^{8/} are set forth in section 22 of title 7 of the General Accounting Office's Policy and Procedures Manual, and Volume 1, § 4-3000 of the Treasury Fiscal Requirements Manual. More particular

^{8/} Army regulation 37-103 does mention imprest fund cashiers generally but the discussion is not very detailed. The Army has informed us that it has no particular regulation or guidance for its disbursements to Job Corps imprest fund cashiers.

guidance for the Job Corps program is described in the Labor Department's Job Corps Handbook No. 630, at 4-6 (1981).^{9/}

Consistent with this guidance, the Army disbursing officer ultimately is accountable for the imprest funds disbursed. Specifically, that officer is responsible for insuring execution of the prescribed procedures and requirements for Job Corps Center accounting for imprest funds, accountable for advances and transactions of the funds, and responsible for auditing the funds.

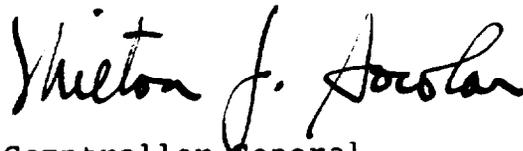
Concurrently, the Job Corps center directors are required to annually audit imprest funds, and should audit the fund with every change of imprest fund cashier. Our procedures also require that the Interior Department make unannounced verifications and audits of balances in the funds. Any improprieties should be reported to the head of the activity, in this instance presumably the Job Corps center director involved, and to the Army disbursing officer who advanced the funds. This is consistent with the Labor-Interior interagency agreement which makes Interior responsible for financial management of its Job Corps operations and for providing an accounting of the funds spent.

The Interior Department imprest fund cashiers are required to protect the funds they receive by using appropriate safeguards, to document all cash payments from the imprest funds, and to obtain reimbursement of their funds from the Army disbursing officer under authorized signature. Imprest fund cashiers are responsible to the disbursing officer for their funds, and at all times should be

^{9/} As the Army appoints its own disbursing officers in contrast to most other Federal agencies whose monies are disbursed by Treasury disbursing officers or disbursing officers under Treasury delegation, 31 U.S.C. § 3321, the relationship between the Army disbursing officers and the Interior imprest fund cashiers may not be exactly the same as that between Treasury Department disbursing officers, or disbursing officers operating under Treasury delegations, and agency imprest fund cashiers. Nevertheless, while the cited section of the Treasury Fiscal Requirements Manual may not legally be binding on the Army, it does provide guidance consistent with and similar to this Office's standards and those in the Job Corps Handbook.

able to account for the full amount of the funds advanced to them. Although our procedures do not require that imprest fund cashiers maintain formal records of their transactions, the Job Corps Handbook suggests that cashiers document all cash payments from their imprest funds on appropriate subvouchers signed by payees.

Of course the Interior imprest fund cashiers, like other Government imprest fund cashiers, are accountable officers of the United States. As such they are held to a standard of strict liability for the funds they have in physical custody, and are automatically liable at the moment a physical loss occurs or an erroneous payment is made. 54 Comp. Gen. 112, 114 (1974). Nevertheless, if a loss or deficiency occurs without fault or negligence of an imprest fund cashier, the cashier may be relieved of liability under 31 U.S.C. § 3527.

for 
Comptroller General
of the United States